

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 98-706

September 25, 1998

PUBLIC UTILITIES COMMISSION,
System Expansion Reporting
Requirements for Authorized
Natural Gas Local Distribution
Utilities

PROTECTIVE ORDER
GOVERNING LDC EXPANSION
REPORTS

WELCH, Chairman; NUGENT, Commissioner

On August 17, 1998, in its Order in Docket No. 96-786, the Commission announced that all authorized local distribution natural gas utilities (LDCs) are required to provide system expansion reports to the Commission every six months, beginning in October 1998. Utilities are required to provide the Commission with information for purposes of regulatory oversight. 35-A M.R.S.A. § 112. Because the nature of the information the Commission requires in these reports includes details of business strategy, system expansion and customer specific information, the information will constitute trade secret information or confidential commercial information within the meaning of M.R. Civ.P. 26(c) and M.R. Evid. 508. Thus, LDCs are required to provide this information subject to the provision of this protective order which restricts the use of the document to purposes relevant to the purposes of this proceeding before the Commission.

We conclude that the reporting information required by the Commission is generally entitled to protection and therefore confidential treatment upon initial filing is warranted.

Accordingly, it is

O R D E R E D

1. That authorized natural gas local distribution utilities shall furnish copies of the system expansion report materials specified in the Commission's September 25, 1998, Order Establishing LDC System Expansion Reporting to the Commission and the Office of the Public Advocate on the filing dates.

2. That the information described in paragraph 1 above shall be considered "Designated Confidential Information" for purposes of this Order.
3. That all Designated Confidential Information shall, unless removed from the coverage of this Order as provided in paragraph 4 below, be and remain confidential to the Commission and the parties to this proceeding. No Person to whom access to Designated Confidential Information is accorded pursuant to paragraph 7 of this Order shall disclose or reveal, directly or indirectly, the content of the Designated Confidential Information to others except as provided in paragraph 7.
4. That the parties to whom such Designated Confidential Information is furnished may challenge the designation of such documents or other information as confidential, by motion to the Commission and upon reasonable prior notice to the parties and an opportunity for hearing. Upon the entry of an order granting such a motion, the provisions and restrictions of this order shall cease to bind any party or other person, with respect to such documents or information as the order granting the motion shall expressly and clearly remove from the coverage of this Order.
5. That this Order may be modified on motion of any party or on the Commission's own motion upon reasonable prior notice to the parties and an opportunity for hearing.
6. This Order does not preclude any party from (a) objecting on any substantive or procedural grounds, to any subsequent data requests or other requests for information or (b) objecting under the Maine Rules of Evidence to the admissibility of any Designated Confidential Information provided by an authorized natural gas distribution utility.
7. That access to Designated Confidential Information shall be limited to the Commission's members, counsel, employees, and any independent consultants or experts retained by the Commission, to a stenographer or reporter recording any hearing in connection with the proceeding; to members, counsel, employees or independent consultants or experts of the Public Advocate.
8. That no copies of Designated Confidential Information furnished by an authorized natural gas distribution

utility shall be circulated to persons other than those persons who are authorized under paragraph 7 of this Order to obtain Designated Confidential Information. Documents offered in evidence may be copied as necessary for that purpose. Persons authorized under paragraph 7 hereof also may take such notes as may be necessary solely for the purpose of this proceeding. Such notes shall also be treated as Designated Confidential Information and shall not be used for any purposes other than the preparation and conduct of this proceeding.

9. That the restrictions upon, and obligations accruing to, persons who become subject to this order shall not apply to any Designated Confidential Information submitted in accordance with paragraph 1 of this order if the Commission rules, after reasonable notice and hearing, that such Designated Confidential Information was publicly known at the time it was furnished or has since become publicly known through no fault of the receiving party.
10. Copies of Designated Confidential Information and documents, notes and other materials containing or reflecting, directly or indirectly, the Designated Confidential Information, that are in the possession of Commission members, counsel, employees, independent consultants or experts retained by the Commission (including both Advisory and Advocacy Staffs) of the Commission may be retained by those persons for the purpose of performing those persons' duties and obligations. If retained, the Designated Confidential Information shall be subject to this Protective Order or to a protective order issued in another proceeding in which the Designated Confidential Information is used. If a Commission member, counsel or employee of the Commission does not retain the Designated Confidential Information, that person shall destroy it as provided in this paragraph. Within forty-five (45) days after the Commission reaches a final decision in this proceeding (i.e. unappealable), each other party and Commission independent consultants and experts retained by the Commission to whom Designated Confidential Information has been provided shall destroy all documents, notes and other materials containing or reflecting, directly or indirectly, such Designated Confidential Information. Audio, video or other such magnetically recorded materials shall be electronically erased before disposal. Documents shall be shredded.

Dated at Augusta, Maine this 25th day of September, 1998.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
Nugent

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320 (1)-(4) and the Maine Rules of Civil Procedure, Rule 73 et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320 (5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.